MURDER IN THE MARKET: PENAL ASPECTS OF BERBER CUSTOMARY LAW IN THE PRECOLONIAL MOROCCAN RIF

DAVID M. HART

(Honorary President, Berber Cultural Association, University of Granada)

To my wife Ursula Kingsmill Hart, deceased January 22, 1996, who was closely involved in almost all my Rifian fieldwork and subsequent write-up, except for the final version of this article, now dedicated to her in loving memory

Abstract

This article focuses on the penal customary law of the Aith Waryaghar tribe of the Moroccan Rif in the immediate precolonial period during the two-plus decades prior to the emergence from their ranks of the former qāḍī bin ʿAbd al-Krim, the leader of the Rifian War of 1921-1926. In it are discussed the results of my fieldwork on the related subjects of alliance, bloodfeud and vendetta in the region, with particular attention to the enormous *ḥaqq* fines levied by the tribal councillors of both the Aith Waryaghar and adjacent tribes for murders committed in the weekly tribal markets. These fines are compared with the contents of five Aith Waryaghar *qānūns*, customary law documents drawn up in Arabic, deriving from the same period and originally published by Col. Emilio Blanco Izaga in Spanish translation in 1939. Here, the *qānūns* are presented in order to provide written documentation for the reconstructed accounts given by my elderly informants in the period 1953-1965. The fit between the two sets of accounts is very close, particularly in the spirit of the law if not in the letter. For the major feature of these *qānūns* is precisely these same heavy fines. The contrast between them and the trifling ones for theft of livestock, for example, is also examined, as are other aspects of feud and vendetta. Finally, the reforming role of bin ʿAbd al-Krim is summarized along with his successful wartime endeavor to substitute the Sharīʿa for customary law in the Rif in all major spheres, thereby preempting any Spanish follow-through on the French declaration of the Berber Dahir of 1930 in their own zone of Morrocco.

ALTHOUGH THE GREAT MASS of Berber tribal and customary law, known variously as *ʿurf*, *qaʿida* or *izirf*, as adhered to in both precolonial and colonial Morocco (up to independence from France and Spain in 1956), remains oral in character, as it does in most tribal societies in Islam, individual Berber societies can nonetheless produce, on occasion, specific *qanuns*, or written customary law documents. The precolonial Moroccan Berber *qanuns* (pl. *qawanin*) were drawn up in an often indifferent Arabic by the local *fqih* or Qur'anic schoolmaster

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of the community and either signed by him or, in a later period, witnessed by two *'adul* or notaries public and occasionally by the *qadi*, in the event that the Berber tribe in question had one. Such documents were essentially of three kinds: 1) those dealing with land, or water, and litigations thereover, as well as deeds of purchase and sale; 2) marriage contracts; and 3) those dealing with matters of law, order and proper behavior in the local community or tribal section which generally also stipulated a long list of fines for infractions or violations, and which were generally witnessed by the notables of the community, the section or the tribe, most of whom were listed by name.

It is the third category of *qanun* documents with which this article will be concerned, for their contents will be checked against accounts provided by elderly informants during the course of my fieldwork among the Aith Waryaghar (Ar. Bni Waryaghal) of the Moroccan Rif from 1953 to 1965 (cf. Hart 1976). The context in which they were written up originally was that of tribal societies in which alliances, bloodfeuds and vendettas—and the distinction between these last two will soon be made clear—played a major role. Perhaps more specifically, they reflect the concern of the members of the tribal council that vengeance killings, under threat either of death or prohibitively heavy fines (in all cases, see below for vernacular terminology) inflicted upon the perpetrators and payable to the councillors collectively, be expressly forbidden in public places such as tribal *suq*s or markets.

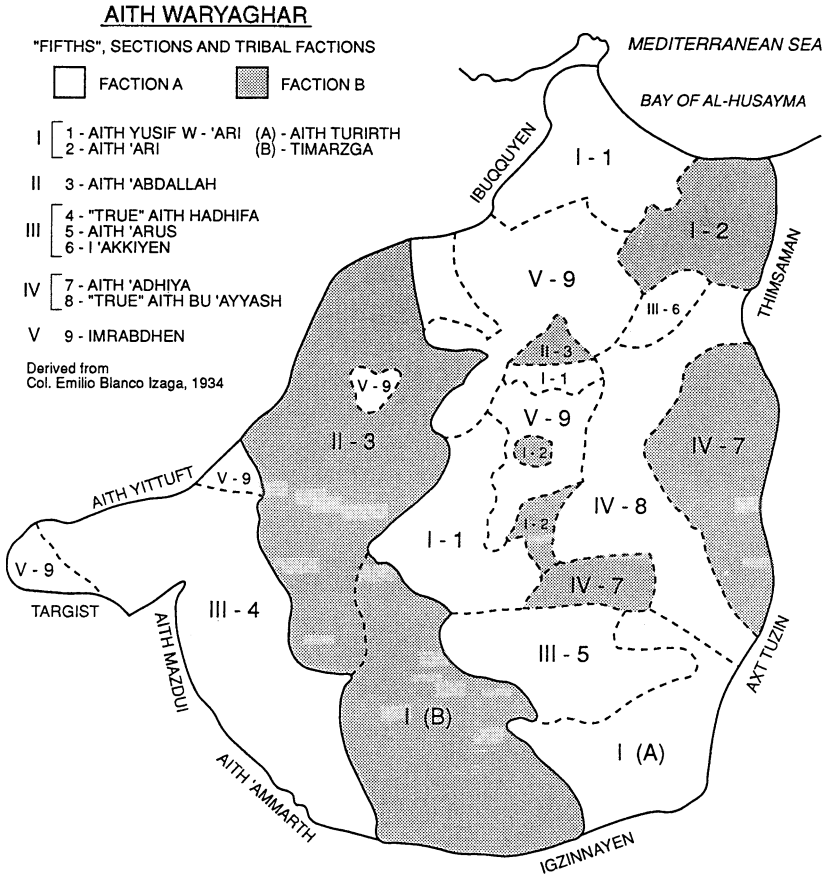
The Rif is one of the three major Berber-speaking regions of Morocco. It consists, properly speaking, of the relatively denuded eastern half of the northern mountain chain of the same name which runs along the northern or Mediterranean coast, from Tangier to Melilla. Its population, known collectively in the vernacular as *Irifiyen* (sing. *Arifi*), or Rifians, is traditionally made up almost entirely of sedentary agriculturalists who live in fixed but markedly dispersed homesteads of mud and stone, but who have since the late 1960s become very largely dependent on labor migration in Western Europe. Targist, at the center of the Rifian chain, forms its watershed; and in the better watered and more wooded country west of it are both the Sinhaja Srir and Ghmara confederacies, and finally the assorted ethnic catch-all of the Jbala, all or most of whom live in true villages, and in houses which originally had thatched roofs but which during the 1960s were changed to corrugated iron ones. The first mentioned are generally bilingual, in Thasinhajith Berber and in Arabic, while the last two speak Arabic only.

It is worth reviewing the vernacular terminology in Tharifith, the Rifian dialect of Berber, to be most commonly employed in this article. The councillors alluded to above were known collectively as *imgharen* or "big men, notables" (sing. *amghar*) or as *aitharbi'in* (sing. *utharbi'in*), as pronounced by the Aith Waryaghar (Ar. Bni Waryaghal) tribe, with whose precolonial penal law this article will deal (cf. also Hart 1976 and Hart 1996, in press), or by the variant *ashtarbi'in* (with same singular), as pronounced by their southern neighbors the Igzinnayen (Ar. Gzinnaya)—or even as *aitharbi'in/ashtarb'in n-imqqranen*, which Coon refers to as "council of the great" (Coon 1931: 96)—while the council meeting itself was known as *agraw* (pl. *igrawen*) to the Aith Waryaghar and as *ayraw* (pl. *iyrawen*) to the Igzinnayen. As I have demonstrated elsewhere (Hart 1976: 283-284), the term *aitharbi'in* refers to "representatives of the people" (from Rif. *tharbi'th*, pl. *tharbi'in*) and has nothing whatever to do with the notion of "forty" (Ar. *arba'in*), as the name suggested, easily but erroneously, to numerous earlier investigators, including Coon (Coon 1931: 96, n. 1). The fines, particularly the prohibitively heavy ones exacted by the concillors as a penalty for homicide committed in the tribal markets, were levied in hasani duros, the Moroccan coinage of the period (though these are generally referred to as *riyals* in the documents). They were known collectively to the Aith Waryaghar as *haqq* (lit., "right, truth"), and are noted as such in some of the *qanuns*, while they were normally called *insaf* (lit., "justice, equity") by the Igzinnayen and other tribal groups further east. But in some of the *qanun* documents the term employed is *da'ira*, taken from Moroccan Arabic and not in normal use in the precolonial Rif.

It should be noted at the outset that the transhumant Berber tribes of the Central Moroccan Atlas, known collectively as *Imazighen*, such as the Ait 'Atta, the Ait Murghad, the Ait Hadiddu and the Ait Sukhman (cf. Hart 1978, 1981(a), 1981(b), 1984(a), 1984(b)), are excluded from our purview here largely because among them, as among Arab Bedouins, in the event of feud, blood compensation or bloodmoney (*d-diyit*, from Ar. *diya*), payable by the killer and the members of his agnatic lineage to the agnates of his victim, assumed a degree of paramount importance which it did not have either among the Rifians or, as it happens, among the equally Muslim Pukhtun tribes of the Pakistan North-West Frontier, at the other end of the Middle East (cf. Hart 1985), whose customary law appears to be completely oral. In both areas heavy fines collected by the councillors were the rule, and

compensation the exception, while the agnates of the dead man normally had no other option but to continue the feud. The two sums of money were destined for two totally different sets of recipients and served two totally different ends (cf. Hart 1996, in press). This crucial fact is, unfortunately, obscured in the commentaries of Col. Emilio Blanco Izaga, a Spanish *interventor* or tribal administrator in the Rif during the 1930s, on the texts of the *qanuns* which he collected—and which we will consider in some detail further on because, possibly unwittingly, he confused the fine known as *haqq* with the bloodmoney or compensation, the *diyit* or *diyith*, throughout his work (Blanco Izaga 1939; Hart/Blanco Izaga, 2 vols., 1975; Hart/Blanco Izaga 1995). Among the largely sedentary and agricultural Berber tribesmen of the Western Atlas and Anti-Atlas regions, known collectively as *Ishilhayen* or *Isusiyen*, a halfway point was reached in two senses, for, generally speaking, half the total sum paid acted as the *diyit* compensation and went to the victim's agnates, while the other half functioned as the fine, here again referred to as *insaf*, and went into the pockets of the tribal councillors (cf. Ben Daoud 1924, Montagne and Ben Daoud 1927, Surdon 1928 and 1938, Llord O'Lawlor 1950, Aspinion 1954, Pascon 1986).

Before discussing what elderly Aith Waryaghar informants had to say about carrying the feud or the vendetta into the market place and the extent to which their statements can be verified by the relevant *qanuns*, however, a brief introduction to the Moroccan Rif as it was during the precolonial period seems in order. "Precolonial" here means, in effect, up until July 1921 and the emergence of Muhammad bin ʿAbd al-Krim al-Khattabi (1881-1963), the *qadi* from Ajdir—a community situated in the Aith Waryaghar lowlands and overlooking both the plain and the bay of al-Husayma—who became the leader of what, between 1921 and 1925, was to turn into a two-fronted Rifian war first against Spain to the east and west and then against France to the south, a full-scale colonial war which ended in Rifian defeat in 1926 (cf. al- Bu ʿAyyashi, 2 vols., 1974, esp. vol. II; Hart 1976: 369-403; Pennell 1986). As both the feud and the vendetta had been rampant in the Rif up to this time, particularly during the period of over two decades immediately preceding the Rifian War, from 1898 to 1921, a period known to Rifians as the *ripublik* or *rifublik*, it is well to distinguish between them here along the lines defined by Peters (1975) and, following him, by Munson (1989).



Feud may be defined as a conflict between different agnatic lineage groups, one in which vengeance may be taken by or on the person of any member of either participant lineage, but preferably by the agnate closest to the victim, such as his son or brother; and a feud can also be settled, sooner or later, by bloodmoney or compensation. Vendetta, however, which in the same context breaks up the normally corporate character of the individual agnatic lineage, should therefore refer either to conflicts within non-corporate lineages—of which the Rifian *dhar-fiqth* is a good example—which is to say, to conflicts between full brothers and their sons between and amongst whom no such compensation

is possible, or to small-scale conflicts between factions pure and simple, in which kinship is not a factor. In the latter sense, vendetta may be understood as it exists in Sicily (where the term presumably originated) and elsewhere in Mediterranean Europe. Vendetta may furthermore continue until all members of one of the parties concerned have been killed, a state of affairs which stands at some variance with Westermarck's famous "law of exact equivalence" with respect to Berber feuds (Westermarck 1947: 22-23; Beattie 1989: 175-176; Hart 1993: 144-145).

In the course of fieldwork among the Aith Waryaghar, the major and most powerful tribal group in the Central Rifian region, with a population of almost 40,000 souls in 1929, three years after effective "pacification" and occupation by Spain—and one of almost twice this figure, 76,000, thirty years later, according to the first census of independent Morocco in 1960 (Hart 1976: 17-19), I was able to draw up a total listing of no less than 193 separate internal conflicts (as reported by living informants in 1953-1955) in which blood was shed during the period from about 1898 (and possibly even as early as about 1880) to 1921, when bin ʿAbd al-Krim abolished the feud and all other cultural features connected with it in the interests of pursuing the war against Spain. This figure amounts to an average of at least eight different conflicts which took place every year. With respect to the total figure of 193, basing my judgment on the make-up and line-up, insofar as I could ascertain it, of the participating lineage groups, I determined only 71 (or 37%) to have been feuds and almost twice this number, 121 (or 63%), to have been vendettas (Hart 1989, 1994, and 1996, in preparation).

With respect to feuds, it is worth citing the famous case of the prolonged hostility between two major lineage groups of the Aith ʿAbdallah section, located in a hilly region between the plain of al-Husayma and the southern mountains of the Jbil Hmam, the Aith ʿAmar u-Hmid and the Ibunharen. This is very probably the same feud discussed by Montagne, although his label for the first participant lineage, Aith r-Qasim, was corrected by my informants to read either Aith ʿAmar u-Hmid or Iziddjifen (Rif., lit., "heads"). At any rate, according to Montagne, it started up over the killing of a dog belonging to the guest of an *amghar* of one of the participating groups and the refusal of the killers to pay 50 duros as compensation. Twelve men were killed the first day, and over the course of time 40 men died on one side and 62 on the other (Montagne 1930: 239-240); but in the

version I was given a quarter century later, in 1953, the total death toll had jumped to over three times as high, from 102 to 365, in other words, a corpse for every day of the year (Hart 1976: 323, 440). There is little doubt but that this story grew vastly in the telling and that the last figure is wildly overblown; but there was no mention at all of any payment of *haqq*, while the *diyith* demanded for the dog was refused outright and led to the feud in the first place.

With respect to vendettas, I recorded, in depth and detail, five very clear cases of vendetta within a single lineage, pitting brothers against each other (ibid.: 324-328). Of these only one need be mentioned here, that which was most intensively covered, and which took place within the Imjjat lineage resident in the Aith Turirth section in the southeastern mountain massif of the Jbil Hmam (lit., "mountain of doves", the highest peak of which, at 1948 meters, also contains the tomb of Sidi Bu Khiyar, the tribal patron saint), which is held by all to be the tribal point of origin. The antagonists were three full brothers and their sons, with the eldest brother, ʿAmar Uzzugwagh, and his sons on one side, and the two younger brothers, Mzzyan Uzzugwagh and Muh Akkuh Uzzugwagh, and their sons, respectively, on the other. In this vendetta the casualties amounted to five on the side of the eldest brother ʿAmar and nine on that of the second and third brothers Mzzyan and Muh Akkuh, making a total of fourteen in all. On the evidence, too, of my own repeated inquiries during fieldwork, no payments of any kind, in the form of either *haqq* or *diyith*, were ever made and no *qanun* was ever drawn up in connection with this vendetta (Hart 1970; Hart 1976: 329-338; and Hart 1996, in preparation).

It also seems worth noting that this last situation is highly redolent of the institutionalized *tarburwali* or rivalry between close agnates among tribal Pukhtuns (Ahmed 1980, 1991; Hart 1985, 1990) so tellingly brought out in a proverb cited by Steul which could easily be Rifian: "May God give a man cousins against his enemies, brothers against his cousins and sons against his brothers" (Steul 1981: 38). Finally, it should also be added that feud and vendetta are also not differentiated from each other terminologically by the Rifians—for the term *r-ʿadhawth* (from Ar. *ʿadawa*, "hatred"), covers them both—and that the distinction is purely an anthropological and analytical one. In general, neither feud nor vendetta was alluded to as such in any of the *qanuns* unless a specific case of it "broke" the peace of a particular market, as both Rifians and other Berbers phrase it—in the vernacular, *yarza s-sulh nj-suq*.

It is now appropriate to provide a synopsis of my Aith Waryaghar informants' accounts of the *haqq* fine (cf. Hart 1976: 293-303). Most of them made it clear that the fine had to do only and entirely with murder committed in the *suq*, the market, or on a path leading to or from it, on market day. In most cases, in fact, the prohibition was extended to the day immediately preceding it and to the day immediately following it. This was also evidently the case both in the Tashilhit Berber-speaking region of the Anti-Atlas (Aspinion 1954) as in the Arabophone hinterland of Safi on the Atlantic coast when it was under Portuguese occupation in the early sixteenth century, thereby providing the prohibition with a respectable antiquity (Bocinos Villaverde 1951, Ziadeh 1960, Weiner 1976). The idea behind it was, of course, to underscore the market as a place of peaceful commercial exchange. Murder committed anywhere else, in the open country, for example, led immediately to feud or vendetta, as the case may have been, and under such circumstances the *haqq* fine did not normally, at least, come into play.

As noted, the literal meaning of *haqq* is "right", for it was the right of the council members, the *imgharen*, to collect this fine from anyone who killed somebody else in the *suq*. Indeed, if the murderer was caught before he could escape, he was generally shot on the spot. If he managed to escape and flee in exile to another section or tribe, where he had to remain for at least a year and often longer, as an *adhrib* (from Mor. Ar. *tlib*, "enemy") in order to avoid both the vengeance of his victim's agnates and the wrath of the councillors, the *haqq* fine went into effect immediately. During most of the period in question, it was normally assessed at 1,000 duros or riyals hasani for murder on a market path, and was doubled to 2,000 duros for murder within the market itself or within its precincts.

In the Wednesday Market of Tawrirt, or of the Aith Turirth, however, only market day itself and the 1,000 duro fine prevailed, probably because no murder had evidently ever been committed inside the *suq*, although many were committed on paths to or from it. It was levied both on the person of the murderer himself and on those of his agnatic kinsmen, his lineage mates. It was also normally paid in money rather than in kind, and in order to be able to raise any sum as large as this a man had to sell almost everything he possessed. If the fine proved not to be forthcoming, the councillors marched in a body to the murderer's house, which they burned, along with his fields and trees. They also confiscated his livestock and then generally repeated the process with the houses and property of his agnates. Contrary to the

view that Surdon once expressed for the Anti-Atlas (Surdon 1928: 189), neither houseburning nor *haqq* fines have any basis in the Shari'a—though Surdon refrained from repeating this error in his later work (Surdon 1938).

A murderer who escaped usually had to remain two years or more in exile before any overtures toward payment of the *diyith*, or blood compensation, which, although variable, went from as little as 30 to 40 duros according to some informants (Westermarck 1947: 17; Hart 1976: 293) up to as much as 1,200 duros according to others (ibid.: 293), was normally a far lesser amount than the *haqq*, could be made to his victim's kin—who generally refused it because they preferred to prosecute the feud. For precisely this reason the killer often had to remain in exile for life. Once he was safely in the territory of another section or tribe, his status underwent a sudden change: he was now an *istihurm*, a person deemed inviolable through the act of having thrown himself on the mercy of the wife of a powerful *amghar* or notable of the section or tribe in question and hence indirectly on that of her husband. As Westermarck has also noted (Westermarck 1947: 12), he did this by the simple expedient of entering the courtyard of the house and putting his hand on the wooden handle of the quern used for grinding grain, which is the exclusive property of women.

The *haqq* payment itself, and in particular the houseburning generally so closely associated with it, was an act of collective vengeance by the tribe or section, in the person of its *imgharen*, taken upon anyone who disturbed the peace of the market by committing murder there. Once the councillors received this fine (and it could also be paid in guns, which were given immediate monetary evaluation), they generally divided it, so informants said, into five equal parts for the "five fifths" of the Aith Waryaghar, *khams khmas n-Aith Waryaghar*: for the function of these fifths, some sections of which were not territorially contiguous with others, lay precisely in the quinary or five-way split of the *haqq* fine among the tribal body politic. Specifically, the five fifths are the following: 1) the *khums* (sing. of *khmas*) embracing both the lowland section of the Aith Yusif w-'Ari and their mountain "brethren" of the Aith Turirth, as well as their neighbors and traditional enemies of another lowland section, the Aith 'Ari and the latters' mountain "brethren" of the Timarzga, 2) the *khums* of the Aith 'Abdallah; 3) the *khums* embracing the sections of the Aith Bu 'Ayyash and the Aith 'Adhiya, who are also contiguous and were also hostile to each other; 4) the *khums* embracing the sections of the Aith Hadhifa, the Aith 'Arus and

the I'akkiyen, none of which are contiguous; and 5) the *khums* of the Imrabdhen, who are *shurfa'* or descendants of the Prophet, in two main upper and lower subsections with additional pockets elsewhere in the tribal territory (for details, cf. ibid.: 248- 260 and Hart 1984(c)). Lowland informants especially held to this quinary division: if a *haqq* of 2,000 duros was divided up, each fifth received 400 duros, and if one of 1,000 was so divided, each fifth received 200 duros.

However, I could find no support for the division into fifteenths also mentioned for the Aith Waryaghar by Westermarck (who was a meticulous ethnographer, and although his article dated 1947 on the subject was posthumous, his Moroccan materials date from the first decade of the *ripublik* in the Rif, 1898-1908), according to whom the leading *amghar* of the market received one fifteenth, the other *imgharen* two fifteenths between them, with the remaining nine fifteenths—or four fifths—entrusted to a wealthy and reliable individual to be kept as a common fund for buying bulls to be sacrificed as *'ar* in order to place a shame compulsion on another party whose assistance was needed in a feud (Westermarck 1947: 29-30). The common fund as a repository for *haqq* fines was something that my informants never mentioned, but it evidently did exist in the neighboring tribe of the Thimsaman to the east (Hart 1993: 149). But I am nonetheless in full agreement with Westermarck that under such circumstances of universal insecurity men virtually lived in their *ishbrawen* (sing. *ashbar*), the small loopholed pillboxes beside their houses, later to be demolished by order of bin 'Abd al-Krim. They ate and slept with their guns close to hand while their women, who of course were exempt from feud or vendetta, would precede them in going out of doors, in order to make sure that the coast was clear and that a well-armed enemy was not lurking behind a lentiscus bush ready to ambush them (ibid.: 22; Hart 1993: 143-144).

It may be appropriate here to provide some additional commentary from Westermarck which certainly has the ring of truth. Among the Aith Waryaghar of the period, he informs us, an ordinary murderer was not considered unclean nor was he blamed for his action. People admitted that murder is forbidden by the Qur'an and that a murderer would go to hell, but also said that if he prayed regularly, gave alms and invited *tulba* (sing. *talib* or *fqih*) to his house to recite the Qur'an, he would probably expiate his sin, "and besides, a Rifian is not much afraid of hell" and "a man who has not taken anybody's life before he is married is not considered a man" (Westermarck 1947: 37). Westermarck adds that when a young fellow had killed someone for the first

time, he would go to the next market at the head of his family, dressed in his best and wearing a new scrip (*dhaza'butsh*, from Mor. Ar. *za'bula*), not as usual on his left side, but on his right, to show what he had done and that he was now a man; and "as it was glorious to kill, so also is it glorious to fall in a fight; only he who dies by being shot is really a man". And now come the most interesting observations of all: "but though ordinary homicide is approved of, it is considered very bad to kill a scribe because of his knowledge of the Qur'an. It is also considered bad, though not equally bad, to kill an unoffending *sharif* because of his holy lineage. If a man who has committed either of these crimes slaughters an animal, its meat will be difficult to digest. This also indicates that the taboos imposed upon killers also have something to do with the moral side of the matter" (ibid.: 37). It may be added here that rating a *fqih* over a *sharif* is not as outrageous as it may sound, because probably 90% of the members of the Aith Waryaghar section of the Imrabdhen. who have a perfect *shurfa'* genealogy, were latent rather than effective holy men who dressed and acted exactly like ordinary lay tribesmen and who indulged in a great deal of feuding among themselves, although generally not with lineages from the neighboring and lay sections (Hart 1976: 256-260; Hart 1993: 151-152).

We now return, however, to the question of the *haqq* fine. Some informants, however, highlanders in particular, distinguished between the *haqq n-tqbitsh*, the tribal fine, and the *haqq nj-suq*, the market fine. In practice these two categories were quite often coterminous, particularly in smaller tribes like the Ibuqquyen or the Aith 'Ammarth, which only have one market apiece. In the former instance, the whole tribe participated, through the medium of its councillors, in the distribution (or payment) of the fine, and in the latter, the distribution (or payment) involved only the constituent sections of or around a given market, although even at this level the notion of a five-way split was often maintained. At the Wednesday Market of Sidi Bu 'Afif between Ajdir and Imzuren, in the Plain of al-Husayma, the Lower Imrabdhen received one-fifth of the *haqq*, and the Aith Yusif w-'Ari and the Aith 'Ari, two-fifths each; at the Monday Market of the Aith Hadhifa, the localized Imrabdhen lineages received one-fifth, while the Aith Bu Jdat and the Iraqraqen, the two component subsections of the Aith Hadhifa, received two-fifths apiece; and at the Wednesday Market of Tawrirt, catering to the highland sections of the Jbil Hmam, the neighboring tribe of the Axt Tuzin (Ar. Bni Tuzin) was allotted one-fifth because the market stands on land which was held originally to have been theirs,

the local *sharif* or saint of the Imrabdhen, Sidi Hmid n-Sidi r-Hajj Misa'ud, was allotted another fifth as a courtesy gesture and because of his holiness (he is also held to have decreed a *haqq* fine of 1,000 duros payable by anyone who killed another in summer during the harvest period), while the three remaining fifths went to the Aith Bu Khrif (a subsection of the Aith Bu 'Ayyash), the Aith 'Arus and the Aith Turirth, the last two of which again split their own shares into fifths.

But the Timarzga section, whose people also frequent this market, did not get a share of its *haqq* revenue because they received one-fourth of the *haqq* fine as divided up at the small Sunday Market of Thiddas just over the tribal border in Ikhuwanen of the Igzinnayen, where the *imgharen* of the Ikhuwanen, Iharrushen and Asht 'Aru 'Aisa subsections of the latter tribe, who received the other three-fourths, shared it with them. This illustrated another principle: that no tribal section had a right to sharing the *haqq* fine in more than one market. Still another is that any *amghar* or notable who failed to show up or who arrived late at a *haqq* division got nothing at all. The variable here was thus the market itself, whether it was a tribal or a sectional market, while the *haqq* was a constant.

However, among the Aith Waryaghar, with five fifths encompassing a total of a good seventeen sections and subsections, a full scale tribal *haqq*, even though it was held by some to have been collected occasionally at the Sunday Market of Thisar in the center of the tribal territory, was only invoked if a man from another tribe should kill a dhu-Waryaghar (sing. of Aith Waryaghar). Such an event was in fact very rare, for hostilities normally began at home and the enemy was *within*. Indeed, he was often a close neighbor, whether a member of another lineage or indeed, as frequently happened, a brother or cousin. A full tribal *haqq* might also occur if a member of one of the two overall intratribal *liff*s or alliance leagues or coalitions within the Aith Waryaghar should kill a member of the opposite league.

Now my informants all held that one such league was constituted by the Aith Yusif w-'Ari, the Aith Turirth, the Aith Bu 'Ayyash, the Aith Hadhifa, the Aith 'Arus, the I'akkiyen and the Imrabdhen, and the other, opposite one was made up of the Aith 'Ari, the Timarzga, the Aith 'Abdallah and the Aith 'Adhiya (Hart 1976: 316-322). But this classification into dual and opposite leagues within the tribe might also represent an attempt on the part of the Aith Waryaghar to explain in a coherent manner, and in terms of a persistent dual factionalism

throughout the tribal territory, the chaotic *de facto* situation which existed as a result of the nearly two hundred purely localized conflicts taking place on the ground, as mentioned at the beginning of this article. At any rate, only if the murderer could pay the prohibitively heavy fine in full was he free from the dire consequences that invariably followed non-payment or only partial payment. Furthermore, the share collected by the *imgharen* of any tribal section from a market *haqq* would almost automatically have been larger than that collected from a full tribal *haqq*.

It may be worth concluding this section by giving a fairly lengthy quote from Coon, from his own work in 1926-1928 among the Igzinnayen, on the heels of the Rifian War. It corresponds nicely with my own material in most respects except that 1) the *haqq* as a primary prevention of murder in markets appears to be missing, 2) the amount stayed at 1,000 duros and was evidently not doubled, but 3) payment of it was evidently invariably accompanied by houseburning by the *imgharen* unless a bull was sacrificed by the killer to implore them to desist. The quotation from Coon follows below (Coon 1931: 104-105):

> When one man murders another, whether or not in retaliation for a previous murder, the tribal council comes to his house, which it burns providing it dares to. It cuts down the fruit trees and inflicts a fine of a thousand dollars (DMH: read "duros"). If the man and his lineage refuse to pay the fine and resist the burning of the house or the cutting of the trees, the members of the tribal council attack them. This fight may last anywhere from a half hour to several months, and may turn into a war. If the lineage which has refused has no allies, it seldom wins, but there are few lineages without allies. The allies in the tribal council draw apart as inconspicuously and as quickly as possible and start shooting at the rest of the tribal council. The lineage which has refused sends messengers to talk with various councillors to try and persuade them to join their side, promising money and women. In this way there are generally two sides fighting each other before the day is over, and they stay there and fight until one side has won. If the tribal council wins and succeeds in burning the house of the murderer, it burns the rest of the houses of his lineage group as well, and cuts down as many of its trees as it dares.
>
> The lineage group then flees in a body to another fifth, to another tribe or out of the Rif entirely. If the members, thinking already of vengeance, cannot stand the sight of their trees being cut and their houses being caved in, they select a bull from the herd which they are driving into exile with them and entrust it to the leader of the mosque or to a student, who leads it back into the presence of the tribal council and slaughters it there (DMH: as *'ar* or shame compulsion). If this is done

> the tribal council is compelled to let them go back again [and to] permit them to pay the fine. Once the bull is slaughtered the tree-cutting and other destruction must cease. Many lineages are too proud either to pay or to send a bull, so that they become destitute and homeless through their pride, providing they are not strong enough to defend themselves against the tribal council....

The only item that Coon missed here, it would seem, is that mountain-top bonfires (*dhifgirin*, sing. *dhafgirth*) provided the main means of communicating to other communities when one of them was in trouble. But a final point to be made with respect to *haqq* fines, and one which I failed perhaps to stress sufficiently in my *The Aith Waryaghar of the Moroccan Rif* (Hart 1976: 291), is that full *haqq* was demanded and paid, and sometimes even doubled in the event of vengeance killings which violated a truce or *sulh* concluded previously. Two of Blanco Izaga's Aith Waryaghar *qanuns* make this very clear, as we shall see in the next section.

It is now time to examine the Aith Waryaghar *qanuns* collected by Emilio Blanco Izaga with a view to seeing how they illustrate and corroborate my informants' accounts. One important point should, however, be made before beginning our analysis of Blanco Izaga's Rifian documents: he arranged them more according to subject matter rather than chronologically. But a chronological arrangement—for the great majority of them are dated—not only makes for greater historical interest generally but also points up the sharp, indeed enormous, increase in the amounts of *haqq* fines assessed by the council members the closer one gets to the beginning of the Rifian War. Although the earliest Rifian document as such that I know of or have seen is a bill of sale for some land and pomegranate trees in l-'Attaf, in the Aith Turirth section of the Aith Waryaghar, dated Rajab 1136/March 1724 (my Aith Waryaghar Ms. 1: cf. Hart 1976: 507; Hart 1997(?), in preparation), those of Blanco Izaga's *qanuns* to be discussed here are all dated much later. The analysis of them to follow will be largely in terms of what light they shed on Rifian society during the highly critical period of the *ripublik* which, as noted, means the years between 1898 and 1921. The period in question contained an imminent threat from burgeoning Spanish colonialism, and was bracketed specifically between the chastisement of the Ibuqquyen (Ar. Buqquya) tribe in 1898 for piracy against European steamers coming through the western Mediterranean by Bushta l-Baghdadi, the pasha of Fez, and the outbreak of the Rifian War against Spain in 1921.

Blanco Izaga's earlier dated *qanuns*, such as that worked out in 1868 by the local community of Thamasind in the center of Aith Waryaghar territory, restrict themselves purely to local community affairs and involve agreements between the constituent lineage groups of the community, or between branches of them. They say nothing about feuding or about *haqq* fines for murder in the markets. However, the later *qanuns*, all drawn up during the two-plus decades of the *ripublik*, when both the feud and the vendetta were at their height, aided and abetted by the relative ease in tribal acquisition (usually through contraband) of modern rifles, focus on individual tribal *suqs* and, by extension, on those tribal sections of the Aith Waryaghar which habitually frequent them and whose members are regarded as being among their regular constituents.

Indeed, the last five dated *qanuns*, and the most important ones, dated between 1907 and 1918, which were recorded by Blanco Izaga for various sections of the Aith Waryaghar, were all of this type; and they are also the ones to be focused upon here. Among them are the *qanuns* of the supersection of the Aith Khattab (comprising the Aith Yusif w-'Ari and the Aith 'Ari sections jointly, which are held to be descended from two mutually hostile brothers, Yusif w-'Ari and 'Ari w-'Ari), which is also responsible for bin 'Abd al-Krim's *nisba* of *al-Khattabi*, and the Wednesday Market of Sidi Bu 'Afif in the tribal lowlands, facing the Bay of al-Husayma, and dated 1907; that of the Aith 'Adhiya section (and implicitly if not explicitly, the Monday Market of their sectional "brethren" the Aith Bu 'Ayyash), dated 1914; that of a truce agreement between two feuding lineages of the Imrabdhen section, drawn up, again, in the Wednesday Market of Sidi Bu 'Afif and dated 1916; that of the Aith 'Abdallah section and the now long defunct Tuesday Market of Thara n-Tihrariyin (Ar. 'Ayn Tihlaliyin), dated 1917; and that involving the breaking of a truce which had ended a feud between two lineages of the Aith Tazurakhth, and the imposition of an enormous *haqq* fine on the transgressor lineage, witnessed by the constituent sectional notables of the Wednesday Market of Tawrirt (i.e., of the Aith Turirth) and dated 1918 (Blanco 1939: 15-68; Hart/Blanco Izaga 1975, II: 274-329; Hart/Blanco Izaga 1995: 281-348). They all reflect draconian decisions taken, and decrees therefore made and enforced, by the members of the *aitharbi'in* in order to curb mayhem, violence and murder in the Aith Waryaghar markets.

The *qanun* of the Aith Khattab supersection, dated Rabi^{c} al-Thani 1325/June 1907, as presented by Blanco Izaga, is the earliest of the

Aith Waryaghar market *qanuns* from the *ripublik* period. With the concord and endorsement of seven sectional *imgharen* or *shiyukh*, all listed by name and headed by the *sharif* Sidi Hmid n-Sidi Misa'ud of the Imrabdhen section, it establishes the Wednesday Market of Sidi Bu 'Afif, in front of the shrine of the saint of the same name bordering the Plain of al-Husayma, near Ajdir. Each of these seven *imgharen*, in turn, must designate either kinsmen or trustworthy individuals (who amount to no less than 52 extra names on the document) as *dumman* (sing. *damin*), guarantors and market guardians, who must arrive in the market before anyone else and leave it after all others have done so. They must also see to it that all those who attend the market, whether adults or minors, obey its regulations. Anyone who attacks and kills another person in the market must pay a *haqq* fine of 500 duros, and if in the attack his bullet should miss its mark, the fine is dropped to 200 duros. Anyone taking justice into his own hands (by indulging in "self-help") on a path leading to the market will be fined 50 duros and must return whatever object he made off with to its owner. Of those who, with shouts and gunshots, might incite riots, as happened in the case of the people of Thafrasth, Aith Musa w-'Amar (both communities of the Aith 'Ari section) and Ajdir (of the Aith Yusif w-'Ari section), each one will pay "with his neck" (*bi-ruqbatuh*), which is to say that he will be shot. Whoever should be discovered in the Monday Women's Market at Azghar must pay 10 duros. (Azghar is another community in the Aith Yusif w-'Ari section, and it should also be noted that women's markets in the Rif survive today only among the Aith Waryaghar: cf. Hart 1976: 86-88.)

So, interpolated, runs the main text of this *qanun* (Blanco Izaga 1939: 59-67; Hart/Blanco Izaga 1975, II: 317-329; Hart 1976: 291; Hart/Blanco Izaga 1995: 337-348). But considerable further commentary is nonetheless called for. The 500 duro fine for murder as stipulated in this *qanun* does not tally with the statements of my informants from the Aith Waryaghar lowlands, who said to a man that the fine was double this figure, 1,000 duros, for homicide committed on any path leading to or from the market, not only on market day, but on the day preceding it and the day following it—which for the market of Sidi Bu 'Afif would extend the prohibition on murder to Tuesday and Thursday as well as to Wednesday, in order to give those market constituents who live far away enough time to get to the market, do their business and get home safely. Not only this, but my informants assessed murder within the market precincts at four times the figure in the Sidi Bu 'Afif

qanun, or 2,000 duros. Nonetheless, it is probable that their figures refer to a slightly later period, one which they would all have been old enough to remember, as is borne out by the Aith ʿAdhiya and Aith ʿAbdallah *qanuns*.

The inference is inescapable, therefore, that on the evidence of the Aith Waryaghar *qanuns* alone, the *haqq* fine was doubled from 500 and 1,000 duros for murder on a market path and for murder in the market, respectively, to 1,000 and 2,000 duros for the same offenses, at some point between 1907 and 1914. Surely this doubling of what was already an exceptionally high price cannot have been due merely to currency inflation during the period in question. One suspects that it had much more to do with a marked increase in tribal armament between 1910 and 1920—more and better rifles, like the prized *dhatsaʿith* or "nine-shot" repeater, the French Lebel model 1886 magazine rifle—and with a corresponding increase not only in vengeance killings as such but also in the frequency of disregarding the prohibition on murders in the *suq*.

However, I must reject Ayache's suggestion that the chief reason behind this stepping-up of the feud and vendetta rate was outside interference by Spain, which would have meant preprotectorate manipulation by Spain on a far bigger scale than actually occurred (Ayache 1981: 114-117). To the contrary, as Pennell has noted, as of 1919 the extent of Spanish economic and political penetration among the Aith Waryaghar, who were almost to a man among Spanish colonialism's most enthusiastic opponents, was far less than it was further east, near Melilla, or well to the west, near Tetuan (Pennell 1986: 66).

I hold the longer and more gradualist view, furthermore, that it was the ever-increasing overpopulation of the Central Rifian region and the poverty and infertility of its terrain, which had already led to what became a major Rifian labor migration to French settler farms in western Algeria as of the mid-nineteenth century, that were the real root causes. Competition over scarce resources also included the less tangible factors induced by partible inheritance of land between brothers, and the quarrels often resulting from it, as well as competition over women. Furthermore, the resounding defeat that the Aith Waryaghar administered in September 1908 to the army of the Moroccan pretender Bu Hmara on the banks of the Nkur River—which forms the boundary between them on the west and the Thimsaman and the Axt Tuzin on the east—aside from demonstrating that for once they were on the side of the sultan and his government, after a long period of successfully

keeping their distance from his tax collectors, had also imbued them, individually and collectively, with a sense of their own invincibility, particularly as they were convinced that Bu Hmara had sold out to both sets of Christians already encroaching on Moroccan soil, in the shapes of France and Spain (Hart 1976: 361-368).

The most immediately noteworthy feature of the next Aith Waryaghar *qanun*, that of the Aith ʿAdhiya section, dated Jumada 'l-Thani 1332/April 1914, is that by this time the fines as expressed above in the Aith Khattab *qanun* had doubled in amount. The Aith ʿAdiya document was drawn up by the required pair of *ʿadul* who signed it in the presence of all the members, adults and minors, of the constituent *jmaʿath* (pl. of *jmaʿth*), the various local communities comprising the section—which is to say, the Aith Tazurakhth (or Aith Zurakhth), Aith ar-Rabda, Aith Kharbush, Aith Umnudh, Aith Ujdir (Bu Qiyadhen), Aith Tizi, Aith Ighmiren and Aith Fars. The members of these communities all went together to the shrine of Sidi r-Hajj ʿAmar in ar-Rabda and sacrificed two bulls to the saint in order to establish a reconciliation and truce, or *sulh*, among all of them with respect to any future acts of murder, theft, pillage and other violence.

Furthermore, in the event that anyone of the Aith ʿAdhiya section should contravene this agreement by killing a fellow section member outside the Monday Market of the Aith Bu ʿAyyash—which all of them attend regularly—or with no witnesses present, then the members of all the communities concerned shall unite against him and burn his and his agnates' estate, drag them from their houses and extract from them a fine—the usual *haqq*, although in this case rendered as *daʿira* in the *qanun*'s Arabic text—of 1,000 duros. In the event that he should kill someone in the market itself or in front of witnesses, the procedure shall be exactly the same, except that the fine shall be doubled to 2,000 duros. Finally, almost as an afterthought, there is the imposition of an infinitely lesser fine of 10 duros for the theft of a goat or a sheep, and one of 5 duros for stealing barley or broad beans from someone else's land (Blanco Izaga 1939: 51-57; Hart/Blanco Izaga 1975, II: 313-317; Hart 1976: 290-291; Hart/Blanco Izaga 1995: 329-335). These last and, by comparison, very minor fines are even less than what Pennell notes to have been the going rate in 1919, a very bad year, for a quintal of barley at 12 duros and one of wheat at 16 duros (Pennell 1986: 48).

Given the extreme disproportion between the amounts of the fines imposed for homicide, on the one hand, and of those for theft of small livestock, on the other, one is tempted to surmise that, potentially at

least, for every goat stolen in the region, no less than one hundred Aith ʿAdhiya men may have met violent ends. But there is no mention in this *qanun* of a three-day prohibition on violence or murder in the Aith Bu ʿAyyash market, as there is in that of the Aith Khattab, although informants were unanimous in confirming its existence. This may therefore have been an oversight either on the part of the *imgharen* who wanted it drawn up or on that of the *fqih* who did the draft. Where, however, this prohibition did not exist was, as we have seen, in the Wednesday Market of Tawrirt, of the Aith Turirth, where only market day itself was sacrosanct, possibly or partly because of the difficulty in enforcing the additional time sanction in the feud- and vendetta-ridden mountains of the Jbil Hmam.

The next Aith Waryaghar *qanun* recorded by Blanco Izaga is one of a pact or truce, *sulh*, between two lineage groups of the Imrabdhen section, the Ikidriwen and the Dharwa n-ʿAbdallah (lit., "sons of ʿAbdallah", although one informant identified this lineage by another name, Ibuʿazzathen), drawn up, once again, in the Wednesday Market of Sidi Bu ʿAfif in the northern tribal lowland and dated Rabiʿ al-Awwal 1335/December 1916-January 1917. Each lineage group—and the implication is that these may have been brother lineages—appeared with its agnates and other allies (one of the allies of the second lineage is listed as the Dharwa n-Tahir Asrih, of the Isrihan subsection of the Aith Yusif w-ʿAri section). The parties concerned agreed upon a year's truce between them, with the two recording *ʿadul* or notaries carefully stipulating that any member of either group who broke the truce before the year was up would have to pay a full *haqq* of 2,000 duros. This iron-fisted final stipulation is certainly the keynote of the *qanun* in question (Blanco Izaga 1939: 15-20; Hart/Blanco Izaga 1975, II: 274-279; Hart 1976: 291: Hart/Blanco Izaga 1995: 281-288).

There is no doubt but that the Aith ʿAdhiya *qanun* of 1914, discussed above, closely foreshadows that of the Aith ʿAbdallah section, drawn up three years later; but the latter, dated Ramadan 1335/June 1917, is even more severe. It was drafted at the (now defunct) Tuesday Market of Thara n-Tihrariyin (Ar. ʿAyn Tihlaliyin) in front of the shrine of the saint Sidi ʿAmran, and it comes down particularly heavily on any incidents, premeditated or not, that might take place there during the three-day market period. It outlaws, specifically, homicides, woundings, gunshots, knifings, strangulations and stonings, and then goes on, furthermore, to condemn pillaging and sacking. Anyone who kills another person within the market precincts and who is caught in the act

of doing so by the *imgharen* will be shot outright and on the spot. If he has not been captured and has fled to another tribe or another section, the councillors will impose a fine of 2,000 duros upon him as *haqq* and will burn his house down to its foundations. The same fine will be applied not only to murder on any of the paths leading to the market, but also to murder within the whole of the sectional territory of the Aith ʿAbdallah on market day. In the latter instance, the murderer must pay this fine if he committed the deed alone, but if several men committed it together, each of them must pay 2,000 duros apiece to the council members. Anyone who wounds another man must pay 1,000 duros and anyone who shoots at another and misses must pay 500 duros. Thus intent to kill, or *thamsasatsh*, is penalized as well, according to the graded scale—and it might be added that in the Jbil Hmam all *imsasaren* or men who took aim with a rifle and then failed to pull the trigger or who threatened anyone else in the market with a knife or a *hadida*, a billhook, were fined the full *haqq* of 2,000 duros, according to informants.

From these extremely high levels of payment, we move down to the following, which are still couched in the same vein: a fine of 50 duros for anyone who takes justice into his own hands (i.e., "by beating up another person in order to collect a debt"), and the same for anyone who wilfully attacks someone else on a path leading to the market; a fine of 10 duros for anyone who provokes an incident in the market, or who beats anyone on the head with a stick, causing blood to flow; and a fine of 5 duros for anyone who unsheaths a dagger in the market, for anyone who wounds another with a stone, or for anyone who, in any of the above cases, comes to the aid of his agnates. No requests for pardons shall be listened to, nor shall any of the fines be commuted.

For the purposes of all the above, Tuesday, market day, begins at dawn and ends at sunset—insofar as the Aith ʿAbdallah are concerned. Insofar as strangers from other sections or tribes are concerned, market day is considered as lasting for three days—Monday, Tuesday itself, and Wednesday—in order to enable them to come safely to the market and to return safely to their homes. Finally, in the event that sufficient proof of any of these misdemeanors does not exist against a suspected individual, he must swear an oath—presumably a collective one, *r-imin* or *thzaddjith*, with eleven of his agnates, in the mosque and on the Qur'an on a Friday (for a discussion, cf. Hart 1976: 309-312)—in order to be acquitted. Aside from the extraordinarily high fines, it should be noted that in this *qanun*, possibly by way of compensation, there is no mention whatsoever of theft (Blanco Izaga 1939: 45-51;

Hart/Blanco Izaga 1975, II: 305-313; Hart 1976: 290; Hart/Blanco Izaga 1995: 319-327).

As already shown with respect to the Imrabdhen *qanun* drawn up at the market of Sidi Bu ʿAfif, there is strong evidence that *haqq* fines, although most commonly associated with murder or violence in the *suq*s, could be and were levied for truce-breaking as well, as Blanco Izaga's final penal *qanun* for the Aith Waryaghar reveals circumstantially but very tellingly. Dated Jumada 'l-Awwal 1336/February 1918, and labeled, with a bland understatement, by Blanco Izaga as an "interlineage *qanun* illustrating executive procedure", it was drawn up both in the Wednesday Market of Tawrirt (i.e., of the Aith Turirth) and in the smaller (and today defunct) Saturday Market of the Aith Tazurakhth, in the presence of thirteen named notables of both markets. For the Tawrirt market, these included, *inter alia*, and for the record, the local *sharif* Sidi Hmid n-Sidi r-Hajj Misaʿud (of the Imrabdhen section but resident in Aith Turirth territory), r-Hajj nj-Hajj Amʿawsh (of the Aith Turirth), Haddu n-Muh Amzzyan (of the Aith Bu Khrif community in the Aith Bu ʿAyyash section, later a *kbir mhalla* commander of tribal irregulars under bin ʿAbd al-Krim and *qa'id* under the Spanish until his deposition in 1951 and death in 1955), Tuhami Ufqir Siddiq (of the Aith ʿArus) and ʿAllal u-Haddu nj-Hashimi u-l-Fari (of the Axt Tuzin). In this same connection, a point that this *qanun* does not mention is that the *sharif* in question as well as the sections whose *imgharen* have just been listed all had equal rights to share in the *haqq* fines collected in the Tawrirt market. (As mentioned earlier, these were 1/5 for Sidi Hmid n-Sidi r-Hajj Misaʿud, 1/5 for the Aith Turirth, 1/5 for the Aith Bu Khrif, 1/5 for the Aith ʿArus and 1/5 for the Axt Tuzin as a courtesy gesture, as the land on which the *suq* is located had originally been purchased from them.)

Although the above names are all recorded toward the end of the document as supporting witnesses, there are also listed, at the outset, no less than five named lineage groups from the community of Aith Tazurakhth (the Aith ʿAisa, the "True" Aith Tazurakhth, the Izubuʿan—who were unknown in the community as of 1960, the Aith Haddu u-Saʿid and the Izzugwaghen) are registered as just having drawn up a guarantee and an agreement of truce with a sixth lineage group, the Dharwa n-Siddiq, also of the Aith Tazurakhth. The *qanun* stipulates clearly that the *haqq* fine for breaking this newly concluded truce will be increased to 4,000 duros, which is of course double even the highest *haqq* amount for murder in the market under normal circumstances. It states, further-

more, that the agreement, concluded previously in the Saturday Market of Tazurakhth, is now being reinforced in the bigger Wednesday Market of Tawrirt.

The reason for this reinforcement and the colossal fine imposed for future violation of the truce was that the Dharwa n-Siddiq had already broken it previously by killing a certain Sha'ib nj-Hajj 'Amar after the original agreement had been made. The result was, as the *qanun* makes clear, that the collective *imgharen* of the Upper Aith Bu 'Ayyash went for the Dharwa n-Siddiq lineage tooth and nail. The latter, understandably, opted for surrender on the basis of the very real threat of being burned out of house and home by the councillors. The property that they handed over to the assembled *imgharen* of both markets was assessed at 1,300 duros. This sum the *imgharen* handed over to the agnates of the murdered man: three sublineages, the Izzugwaghen, the Dharwa nj-Hajj 'Amar and the Dharwa n-Muhand n-Muh nj-Hajj Muhammadi, received 300 duros apiece; two smaller ones, the Dharwa n-Hmid n-Taimund together with Muhand n-Tah, and the Dharwa n-Hammu Kabghith together with Muhand n-Taimund n-Misa'ud, received a further 300 duros (i.e., 150 for the first pair and the same for the second); and the final 100 duros were split in half between two agnates, Siddiq n-Bu Khrif and 'Abd r-Qadar Hashsha' (Blanco Izaga 1939: 21-28; Hart/Blanco Izaga 1975, II: 279-288; Hart 1976: 291; Hart/Blanco Izaga 1995: 289-298).

As at the time the *qanun* was drafted a total of 1,300 duros, only a third of the total *haqq*, had evidently been paid in kind by the transgressors to the *imgharen*, the latter now assessed the property in question at this sum, which they then handed over to the agnates of the murdered man. We may therefore infer that the larger remainder of 2,700 duros was still held to be forthcoming; but whether this amount was actually paid up by the guilty party at a later date is not recorded. This *qanun* can also be nicely compared with Coon's account of *haqq* collection and houseburning by the *imgharen* of the Igzinnayen, quoted above *in extenso* (Coon 1931: 104-105), while the *qanun* as a whole illustrates too, perhaps better than any other, that the principle of equitable distribution was of paramount importance in the collection of *haqq* or any other fines and that it was insisted upon by their recipients, the tribal *imgharen*. Such a division, indeed, was developed into a fine structural art. A notation with respect to the lowland Aith 'Ari section in the Plain of al-Husayma in an unsigned Spanish administrative report dated 1928—not long after the Rifian War was over—indicates

that if there was not enough money to go around evenly, matches were then purchased and divided up. This case may be apocryphal, but it has an authentically egalitarian ring (Hart 1976: 291).

In addition, one might almost say not exactly that murder in the market did not pay, because it did pay, to a very limited extent; but it paid only the *imgharen* with a source of income that was highly irregular and not very substantial by the time it reached the pockets of the individual *amghar*. Furthermore, it also normally "broke" the market, for that day, at least. As for its perpetrator, if he were not shot outright by the councillors or by someone else in the market, he could look forward only to having to sell everything he possessed in order to meet the fearful costs of the *haqq* fine (in which, of course, his agnates had to help him) and/or to escaping, with or without these same agnates, to the territory of another section or tribe both in order to avoid the vengeance of his victim's patrikinsmen and/or the burning of his house to its foundations and the confiscation of his livestock by the *imgharen*, especially if he were unable to raise the money.

Coon also noted that killing people on Muslim feast days or during the obligatory fast during the month of Ramadan (when the swearing of collective oaths was also prohibited) was one of the strongest reasons for the permanent expulsion not merely of individuals, but of whole lineage groups, and that the permanent exiling of the latter had been going on for so long that there were, even during the precolonial period, numerous colonies of exiled Rifians living outside the Rif. Of these the Thimsaman, the Aith Waryaghar, the Igzinnayen and others in the Fahs outskirts of Tangier, the Igzinnayen, again, at Lamta, outside Fez, the Axt Tuzin at Mawlay Idris Zarhun and the Aith Sa'id at Battiwa (formerly Vieil-Arzeu/Saint-Leu) in western Algeria are examples (Coon 1931: 105).

Finally, for the sake of completeness, and from the period of the Rifian War, Blanco Izaga provides two further very short Aith Waryaghar *qanuns*, both dated but totally different in content from any of the foregoing ones. They are worthy of note, if only to offset the latter. One, of purely routine interest, is a document of tax exemption for the sons of the late Si Hmid bin Si 'Ali at-Tawti, signed by Muhammad bin 'Abd al-Krim himself and dated Safar 1341/October 1922; and the other is a *qanun* with respect to tribal participation in *harkas* or military formations at the front, signed by his chief of protocol or *qa'id al-mishwar*, 'Abd al-Krim Haddu n-Si Ziyyan, also of Ajdir in the Aith Yusif w-'Ari section, dated at Taghzut in the Sinhaja Srir on the

southern (or French) front in Ramadan 1344/March 1926, scarcely three months before the end of the war. This *qanun* states that it is obligatory for all *qa'id*s or leaders of *harka*s, as well as for *harka* members, to present themselves in fixed turns, without losing a day except in case of illness, and that nobody may go on leave during his turn without prior authorization from the *kbir mhalla*. The fines to be imposed are as follows: for *harka* members, two days in the *harka* for each day of absence, and a fine of 2 duros; for *qa'id*s of 25 men, the same, with a fine of 3 duros; for *qa'id*s of 50 men, the same, with a fine of 4 duros; for *qa'id*s of 100 men, the same, with a fine of 5 duros; and for *qa'id*s of 200 men, the same, with a fine of 6 duros. This authorization, it is stated, comes from the Makhzan of Sid Muhammad bin ʿAbd al-Krim al-Khattabi (Blanco Izaga 1939: 83-86; Hart/Blanco Izaga 1975, II: 341-342; Hart/Blanco Izaga 1995: 367-375).

But as of the end of May 1926, the penal *qaʿida* of the Aith Waryaghar was as finished up as was its own nemesis, bin ʿAbd al-Krim, who as a good and believing *qadi sh-shraʿ* had brought it down as of 1922. He had managed to do so some four years before he surrendered to the French at Targist, to be then exiled by them to Reunion Island for a further twenty one years, to jump ship in Egypt on a return journey in 1947 and to die in Cairo in 1963.

It is always possible, as well as desirable, for historical reasons, that more Rifian *qanun* documents will be found, especially among the personal and family papers of individuals, and that the individuals in question will not object to having copies made of such documents for the purposes of disinterested scholarship. But the Rifian *qanun*s themselves are now a part of Moroccan history and sociology during the immediate precolonial period, for despite the declaration of the northern Spanish protectorate in 1912, the Rif was not effectively occupied by Spain until June 1926 at the end of bin ʿAbd al-Krim's war, when he surrendered to the French (at the end of May) and was subsequently himself exiled, not to a neighboring tribe as though it were the consequence of a feud, but to Reunion Island in the Indian Ocean. Both because he was a *qadi* of the Shariʿa and because he had a strong reformist streak, bin ʿAbd al-Krim had taken great exception to a large part of the content of the Rifian *qaʿida*, the customary law of the region, with the result that he abolished anything to do with feud, vendetta, alliance or collective oath. He decollectivized oaths, for example, to the point where only the accused individual, without co-jurors, could

swear, as stipulated by the Shari'a, and, as already noted, he ordered all the feuding pillboxes formerly located beside every Rifian house to be demolished. Given the situation of wartime emergency, bin 'Abd al-Krim was able, by 1922 or early 1923, when he declared the existence of the *Dawla Jumhuriya Rifiya* or "Rifian Republican State" (and it should be noted here that the term *jumhuriya* has nothing whatsoever to do with the previous dispensation of government by the *imgharen* known as the *Ripublik*), with himself as head of government, to do away with almost all of the old *qa'ida*, and certainly all of its major features (Hart 1976: 375-394). In effect, bin 'Abd al-Krim pulled the rug of customary law out from under his own people. Since he left the area, never to return, very little of it has come back, and the Rif has become firmly anchored in the Shari'a.

It is ironic that although many of the Spanish *interventores* in the Rif, with Emilio Blanco Izaga in the lead, were eager for Spain to follow the French example and apply the Berber Dahir of 1930, with its full support for Berber customary law, to their zone as well, they were quite unable to do so because bin 'Abd al-Krim had already managed to preempt such a move over half a decade earlier, under wartime conditions. He had, indeed, preempted it so successfully that any attempt at a reinstatement of it, even among the highly conservative Aith Waryaghar, and particularly under the changed conditions engendered both by the war and, immediately following it, by the protectorate, would not have been possible. It has, since then, been rendered even less possible by the rescinding of the Berber Dahir itself by an independent Moroccan administration in 1956, no doubt both because the French had underwritten it and because it was deemed incompatible with "modern development". There are signs today, since 1986, that bits and pieces of customary law are gradually coming back to the rural (and formerly tribal) Berber-speaking regions of Morocco, through the appointment of a series of local specialists, *qadi*s in customary law, in all the relevant market sites in the countryside, but it is doing so slowly and in a very "low-key" manner, with the reinstatement of selected and only minor items of custom. Feud, vendetta and collective oath, to say nothing of *haqq* fines, are today all things of the distant past, while the market has very definitely remained a place of peace.

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